

### REMARKS

Claims 1, 4, 5, 7-12, and 14-33 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,278,982 ("Korhammer"), 63 F.R. 12124 ("NASD")<sup>1</sup>, and Smith, *et al.* ("Smith")<sup>2</sup>.

Claim 1, as amended, recites: "... a computer readable medium storing a computer program product comprising instructions to manage quotes ... manage order routing/execution to provide ... either a single point delivery of executions or routing of orders ... receive ... a request for cancel of an execution of an order from a market participant that has the one of the received orders also in an order book of the market participant to prevent execution of the order, if the order has not yet been executed by the collector facility". NASD, alone or in combination with Korhammer and Smith, neither describes nor suggests these features.

The examiner appears to equate a recipient of an order declining the order in NASD with an order routing/execution manager receiving a request for cancel of an execution of an order in claim 1. NASD, however, describes:

**During the delivery period, the recipient is permitted to accept, partially execute, or decline the order. Any partial execution or decline must be done in compliance with the Firm Quote Rule; all such actions will be forwarded to NASDR for its review.<sup>3</sup>**

Nowhere does NASD describe or suggest a request for cancel of an execution of an order received by an order routing/execution manager. Rather, the declining of an order in NASD pertains to delivery of an order for execution. On the other hand, the request for cancel is a message used in managing order routing/execution to prevent execution of the order by the facility. This combination provides a novel solution to the dual liability problem. Unlike the declining of an order in NASD, the request for cancel prevents execution of the order in the collector facility, (and thus subsequently permitting, for example, an ECN to execute the order

---

<sup>1</sup> NASD Rulemaking: Relating to an Integrated Order Delivery and Execution System, *Self-Regulatory Organizations; Notice of Filing of Amendment No. 1 to a Proposed Rule Change by National Association of Securities Dealers, Inc. Relating to an Integrated Order Delivery and Execution System*, SECURITIES AND EXCHANGE COMMISSION, Release No. 34-39718, File No. SR-NASD-98-17, March 4, 1998

<sup>2</sup> Jeffrey W. Smith, James P. Selway III, and D. Timothy McCormick, *The Nasdaq Stock Market: Historical Background and Current Operation*, NASD Working Paper 98-01, Department of Economic Research, NASD, 1998

<sup>3</sup> NASD, Page 12129, Column 3 – Page 12130, Column 1.

in its own system). These features facilitates display of orders by disparate system and non members systems, e.g., ECN's in the order book of the electronic market that provides both a single, common point of entry of orders and delivery of executions/routing of orders while preventing dual liability for such participants as ECN'.

Korhammer fails to cure the deficiencies of NASD: Specifically, Korhammer neither describes nor suggests any mechanism or indeed any need for the recited "request to cancel," as in claim 1. Smith, like Korhammer fails to cure the deficiencies of NASD and NADA with Korhammer. Nowhere does Smith describe or suggest a request to cancel, as recited in claim 1.

The request for cancel feature, as recited in independent claim 1 as well as independent claims 14, 20, and 21, allows for avoidance of dual liability. For at least these reasons, independent claims 1, 14, 20, and 21 are patentable over the references Korthammer, Smith and NASD. Similarly, dependent claims 4, 5, 7-12, 15-19, and 22-33 each depend from respective ones of these independent claims and are likewise patentable over the references.

It is believed that all the rejections and/or objections raised by the examiner have been addressed.

In view of the foregoing remarks, applicant respectfully submits that the application is in condition for allowance and such action is respectfully requested at the examiner's earliest convenience.

All of the dependent claims are patentable for at least the reasons for which the claims on which they depend are patentable.

Canceled claims, if any, have been canceled without prejudice or disclaimer.

Any circumstance in which the applicant has (a) addressed certain comments of the examiner does not mean that the applicant concedes other comments of the examiner, (b) made arguments for the patentability of some claims does not mean that there are not other good reasons for patentability of those claims and other claims, or (c) amended or canceled a claim does not mean that the applicant concedes any of the examiner's positions with respect to that claim or other claims.

Applicant : Stuart Serkin et al.  
Serial No. : 09/401,873  
Filed : September 23, 1999  
Page : 11 of 11

Attorney's Docket No.: 09857-029001

Respectfully submitted,

Date: July 15, 2008

/Denis G. Maloney  
Denis G. Maloney  
Reg. No. 29,670

Fish & Richardson P.C.  
225 Franklin Street  
Boston, MA 02110  
Telephone: (617) 542-5070  
Facsimile: (877) 769-7945

09857-029001\_reply.doc